

APPEAL NO. 040778
FILED MAY 13, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 16, 2004. The hearing officer resolved the disputed issues by determining that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the sixth, seventh, and eighth quarters. The appellant (carrier) appeals these determinations. The claimant urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

Section 408.142 provides that an employee continues to be entitled to SIBs after the first compensable quarter if the employee: (1) has not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; and (2) has in good faith sought employment commensurate with her ability to work. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been enrolled in, and satisfactorily participated in, a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation program (TRC) during the qualifying period. Rule 130.101(8) defines the phrase "full-time vocational rehabilitation program" as follows:

Any program, provided by the [TRC] . . . for the provision of vocational rehabilitation services designed to assist the injured employee to return to work that includes a vocational rehabilitation plan. A vocational rehabilitation plan includes, at a minimum, an employment goal, any intermediate goals, a description of the services to be provided or arranged, the start and end dates of the described services, and the injured employee's responsibilities for the successful completion of the plan.

The definition of a "full-time" vocational rehabilitation program is not made with reference to any specific number of hours. Texas Workers' Compensation Commission Appeal No. 010639, decided April 25, 2001.

The Individual Plan for Employment (IPE) submitted into evidence by the claimant contained all of the information required by Rule 130.101(8). Accordingly, we cannot agree that the hearing officer erred in finding that the claimant was enrolled in a full-time program sponsored by the TRC. Whether or not the claimant satisfactorily participated in the program is a question of fact for the hearing officer to resolve. Clearly, the hearing officer was persuaded by the evidence that the claimant was acting in good faith to accomplish the goals set out in the IPE and that she was satisfactorily

participating in a full-time vocational rehabilitation program during the relevant time period. Because the claimant satisfied the good faith requirement of Rule 130.102(d)(2), she was not required to additionally satisfy the requirement of Rule 130.102(e). See Texas Workers' Compensation Commission Appeal No. 000321, decided March 29, 2000. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb the hearing officer's determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier** and the name and address of its registered agent for service of process is

**TIMOTHY J. McGUIRE
633 NORTH STATE HIGHWAY 161
IRVING, TEXAS 75038.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge